

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JAMES E. BACHMAN, ADELLA A.
BACHMAN, ERIC J. BACHMAN,
RACHEL A. BACHMAN, MATTHEW R.
BACHMAN, and C. ANDREW
BACHMAN,

8:19CV276

Plaintiffs,

vs.

JOHN Q. BACHMAN, and LEAF
SUPREME PRODUCTS, LLC, A
Nebraska Limited Liability Co.;

Defendants.

MEMORANDUM AND ORDER

Defendants have moved to compel compliance the subpoenas dated October 28, 2019 that Defendants served upon the Nebraska Department of Labor (“NDOL”) on November 7, 2019. (Filing No. 69). As to Leaf Supreme, LLC (Filing No. 69, at CM/ECF pp. 4-6), and as to Contractor Metals, LLC, (Filing No. 69, at CM/ECF pp. 7-9), the subpoenas demand production of any and all: 1) quarterly reports submitted as to all employees claimed for each quarter, beginning January 2016 and ending the 2nd Quarter of 2019; 2) annual reports submitted as to all employees claimed for each calendar or fiscal year beginning in 2016 and ending 2019; and 3) other reports or other records held by the NDOL indicating all employees reported by Leaf Supreme, LLC and by Contractor Metals, LLC for calendar or fiscal years 2016 through 2019. (Filing No. 69, at CM/ECF pp. 6, 9).

On November 8, 2019, the NDOL notified Defendants that it objects to responding to the subpoenas absent a court order. (Filing No. 69, at CM/ECF pp. 10-12). But the NDOL did not move to quash the subpoenas. See 20 C.F.R.

§603.7(a). Moreover, Plaintiffs have not responded to Defendants' motion to compel, and the deadline for doing so has passed. The motion to compel is deemed unopposed by Plaintiffs.

The subpoenas at issue demand information relevant to deciding whether Defendant Leaf Supreme, LLC and/or Contractor Metals, LLC employed the plaintiffs during the time periods alleged in Plaintiffs' complaint. For the reasons stated in the court's prior order, (Filing No. 59), this information will assist the court in determining whether and to what extent this court has subject matter jurisdiction over Plaintiffs' FLSA claims.

Accordingly,

IT IS ORDERED:

- 1) Defendants' motion to compel, (Filing No. 69), is granted.
- 2) On or before January 10, 2020, the Nebraska Department of Labor shall fully comply with the document production subpoenas described above, which are dated October 28, 2019 and were served by the defendants on the NDOL on November 7, 2019.
- 3) All information disclosed by the NDOL in accordance with the subpoenas shall be confidential and shall not be disclosed to anyone other than the parties and their counsel absent further order of the court.
- 4) Defendants shall pay the NDOL a \$25.00 search fee and \$.25 per page for the records requested by the subpoenas.

December 28, 2019.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge